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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,077	11/26/2003	Abraham Albenda	03399/LH	7872
1933	7590	12/27/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708			HOGE, GARY CHAPMAN	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/723,077	ALBENDA, ABRAHAM	
	Examiner	Art Unit	
	Gary C. Hoge	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 October 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20,22,23 and 26-29 is/are pending in the application.
 4a) Of the above claim(s) 6,17 and 19 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-5,7,8,10-16,18,20,22,23 and 26-29 is/are rejected.
 7) Claim(s) 9 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION***Election/Restrictions***

1. Claims 6, 17 and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on May 17, 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7, 12, 20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Tobin (5,129,609) in view of Anderson (2,142,547).

See Fig. 7. Tobin discloses a device comprising a unitary, rigid sheet having five panels. The second panel from the left constitutes a left center panel. The fourth panel from the left constitutes a right center panel. The third panel from the left constitutes a spine panel arranged between and pivotally connected to both the left and right center panels. The first panel from the left constitutes a left side panel pivotally connected to the left center panel and having a smaller width than the width of the left center panel. The fifth panel from the left constitutes a right side panel pivotally connected the right center panel and having a smaller width than the width of the right center panel. The panels disclosed by Tobin are made of "corrugated cardboard" (col. 3, line 58). Corrugated cardboard, by definition, is a material constructed of planar layers of material connected by parallel ribs that define cavities. However, the device disclosed by Tobin

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does not include a separation line in one of the layers, the separation line being opposite a fold line. Anderson teaches that it was known in the art to create a separation line (see Fig. 3) opposite a fold line in a cardboard blank, in order to make it easier to fold the cardboard. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the folds in the device disclosed by Tobin with a separation line opposite the fold line, as taught by Anderson, in order to make it easier to fold the cardboard.

Regarding claims 2 and 3, Tobin discloses a plurality of vertically-extending fold lines.

Regarding claim 4, Fig. 7 shows that corners are rounded. (See lines 26).

Regarding claim 22, Tobin discloses a spine panel 12a. The left and right center panels are foldable so that an outer surface of one panel overlies an outer surface of the other.

4. Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobin (5,129,609) in view of Anderson (2,142,547), as applied to claim 1, above, and further in view of Schirer (6,155,325).

Regarding claim 8, Tobin discloses the invention substantially as claimed, as set forth above. However, Tobin does not disclose scoring the intact layer. Schirer teaches that it was known in the art to score cardboard in order to make it easier to fold. It would have been obvious to one having ordinary skill in the art at the time the invention was made to score the intact layer of the cardboard disclosed by Tobin, as taught by Schirer, in order to make it easier to fold the cardboard.

Regarding claim 13, Tobin discloses the invention substantially as claimed, as set forth above. However, Tobin does not disclose a horizontal fold. Schirer teaches that it was known in the art to provide a display device with a horizontal fold, in order to make the device easier to

store. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device disclosed by Tobin with a horizontal fold, as taught by Schirer, in order to make the device easier to store.

5. Claims 10, 11 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobin (5,129,609) in view of Anderson (2,142,547), as applied to claim 1, above, and further in view of Wright (2002/0072598).

Tobin discloses the invention substantially as claimed, as set forth above. However, the separation lines are perpendicular to the ribs, rather than parallel to them. Wright teaches that it was known in the art to align a separation line parallel to the ribs of a cardboard blank. It would have been obvious to one having ordinary skill in the art at the time the invention was made to align the separation lines disclosed by Tobin parallel to the ribs of the cardboard blank, as taught by Wright, as an obvious matter of choice in design.

6. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobin (5,129,609) in view of Anderson (2,142,547), as applied to claim 1, above, and further in view of Gardner (5,775,949).

Tobin discloses the invention substantially as claimed, as set forth above. However, the device disclosed by Anderson does not include a means for maintaining the device in a folded condition. Gardner teaches that it was known in the art to provide a Velcro®-type fastener to maintain a folding device in a folded condition. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the folding device disclosed by Tobin with a fastener, as taught by Gardner, in order to maintain the device in a folded condition.

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7. Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tobin (5,129,609) in view of Anderson (2,142,547), as applied to claim 1, above, and further in view of Hanna (4,531,564).

Tobin discloses the invention substantially as claimed, as set forth above. However, Tobin does not disclose attaching a second panel above the first panel. Hanna teaches that it was known in the art to attach a second panel above a first panel, in order to make a taller overall assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use pegs, as taught by Hanna, to mount a second panel to the panel disclosed by Tobin, in order to make a taller overall assembly.

Allowable Subject Matter

8. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge
Primary Examiner
Art Unit 3611

gch